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TRANSMITTAL OF AMENDED APPEAL BRIEF	Docket No. 249768044US1

In re Application of: Gregov et al.

Application No.	Filing Date	Examiner	Group Art Unit
09/848,608-Conf. #5996	May 3, 2001	N. U. Haq	3625

Invention: PERSONALIZED PROMOTION OF NEW CONTENT

TO THE COMMISSIONER OF PATENTS:

Transmitted herewith is the Amended Appeal Brief in this application. The Appeal Brief has been amended in response to the Notification of Non-Compliant Appeal Brief dated July 21, 2006.

The fee for filing this Appeal Brief is _____ .

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Dated: 8/21/06

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Express Mail No. EV904397587US
Docket No.: 249768044US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	Gregov et al.		
Application No.:	09/848,608	Conf. No.:	5996
Filed:	May 3, 2001	Art Unit:	3625
For:	PERSONALIZED PROMOTION OF NEW CONTENT	Examiner:	N. U. Haq

AMENDED APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This brief is in furtherance of the Notice of Appeal filed in this case on February 15, 2006. The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

I. REAL PARTY IN INTEREST

The rights of the inventors in this application have been assigned to Amazon.com, Inc., of Seattle, Washington, as originally recorded at reel 012122, frame 0076.

II. RELATED APPEALS AND INTERFERENCES

Neither Appellants, Appellants' legal representative, nor the above-identified Assignee are aware of other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

III. STATUS OF CLAIMS

Claims 1-59 have been presented; claims 7-23 and 26-59 are withdrawn; claims 1-6, 24 and 25 are presently pending and stand finally rejected.[1]

Claims 1-6, 24 and 25 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2001/0054015 A1 to Boucousis ("Boucousis").

Appellants hereby appeal the rejection of claims 1-6, 24 and 25.

IV. STATUS OF AMENDMENTS

Although Appellants filed, on November 22, 2005, a response to a final Office Action dated September 23, 2005, the response contained no amendments to the claims. The response has been considered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present application includes three independent claims. Each independent claim is paraphrased below, with citations to the corresponding portions of the specification and drawing as required by 37 C.F.R. § 41.37(c)(1)(v). These citations are provided in order to illustrate specific examples and embodiments of the recited claim language, and are not intended to limit the claims.

A. Overview of the Invention

The rejected claims are directed to techniques for automatically presenting users information on new items likely to be of interest to the users, thereby better maximizing the potential to increase page views at a web site. A software facility incorporates information about various types and categories of new items in a central location, enabling for convenient presentation of information on new items based upon predicted levels of interest to users. Items may include, for example, products, services, various kinds of content (e.g., reviews, interviews, announcements, etc.), and combinations thereof. The

[1] The claims are shown in Appendix A.

software facility filters the available items based upon their availability dates, thereby identifying the items that are new. Date filtering may be performed based upon the current date, dates of previous visits to a web site through which the information is presented, or a combination thereof. Moreover, date filtering may be applied to a variety of types of availability dates attributed to an item, such as, by way of example, the item's release date, publication date, arrival date, completion date, receipt date, or the date of some associated event, such as a holiday or anniversary. Thus, an item's effective date typically approximates the date on which the item became available for purchase or consumption. The software facility further filters these items based upon the likelihood that a user will be interested in the items. Interest filtering may be performed based upon preferences attributable directly to the individual user, those attributable to a group of which the user is a member, and/or those attributable to all users. User interests may relate to, by way of example, genre, author, artist, and other category areas of interest as determined from a customer's (e.g., user's) previous purchases, previous ratings, or expressed explicitly. Moreover, interest filtering may use information regarding item sales or other forms of consumption, web browsing behavior, and other indications of the user's interest. In some cases, the software facility also sorts the items selected for presentation to a user based upon the likelihood that they will be of interest to the user.

B. Independent Claims on Appeal

1. Claim 1

Claim 1 is directed to a method in a computing system for displaying information about new products to an identified user. The method filters the new products based upon the product's availability date, and presents information about the filtered products to the user based upon information relating the user. The method comprises: automatically defining a range of dates within which the availability dates of new products fall (*See e.g.*, Specification, 7:26-8:5); subsetting an inventory of products to those products having an availability date falling within the defined date range (*See e.g.*, Specification, 8:6-15); from among the subsetted inventory, automatically selecting products for display based upon

predicted level of interest to the user (*See e.g.*, Specification, 8:16-26); and adding information about the selected products to a display (*See e.g.*, Specification, 8:27-9:5).

2. Claim 24

Claim 24 is directed to a computer-readable medium whose contents cause a computing system to display information about new products to an identified user. The contents on the computer-readable medium cause the computing system to filter the new products based upon the product's availability date, and present information about the filtered products to the user based upon information relating the user. The contents cause the computing system to display information about new products to the identified user by: automatically defining a range of dates within which the availability dates of new products fall (*See e.g.*, Specification, 7:26-8:5); subsetting an inventory of products to those products having an availability date falling within the defined date range (*See e.g.*, Specification, 8:6-15); from among the subsetted inventory, automatically selecting products for display based upon information relating to the user (*See e.g.*, Specification, 8:16-26); and adding information about the selected products to a display (*See e.g.*, Specification, 8:27-9:5).

3. Claim 25

Claim 25 is directed to a method in a computing system for presenting information about new content on a web site to a user. The method filters the new content on the web site based upon the content's availability date, and presents information about the filtered content to the user based upon information relating the user. The method comprises: automatically defining a range of dates within which the availability dates of new instances of content fall (*See e.g.*, Specification, 7:26-8:5); subsetting an inventory of new instances of content to those instances of content having an availability date falling within the defined date range (*See e.g.*, Specification, 8:6-15); from among the subsetted inventory, automatically selecting instances of content for display based upon information relating to

the user (*See e.g.*, Specification, 8:16-26); and adding information about the selected instances of content to a display (*See e.g.*, Specification, 8:27-9:5).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Is the rejection of claims 1-6, 24 and 25 under 35 U.S.C. § 103(a) over Boucousis proper?

VII. ARGUMENT

A. Rejections Under 35 U.S.C. § 103(a)

1. Legal Standards for Obviousness

All of the claims on appeal stand rejected as being obvious under 35 U.S.C. § 103(a). 35 U.S.C. § 103(a) provides:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

To reject claims as being obvious, "the examiner bears the initial burden of presenting a *prima facie* case of obviousness." *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d (BNA) 1955, 1956 (Fed. Cir. 1993). "A *prima facie* case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." *Id.* (quoting *In re Bell*, 991 F.2d 781, 782, 26 U.S.P.Q.2d (BNA) 1529, 1531 (Fed. Cir. 1993)). The Examiner is not allowed to use hindsight gleaned from the invention itself to modify references. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1050-51 (Fed. Cir. 1988). Furthermore, "[t]he mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992). Although a prior art device "may be capable of being modified to run the way [the patent

applicant's] apparatus is claimed, there must be a suggestion or motivation in the reference to do so." *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990).

As set forth below, the Examiner has failed to satisfy his burden with respect to each of the recited claims. By declining to present arguments with respect to some of the dependent claims, Appellants do not imply that the limitations added by such claims are disclosed or suggested by the references.

B. Overview of the Cited Reference

1. The Boucousis Reference

Boucousis describes a method that allows seekers of information to query and receive commercially sensitive information from vendors in exchange for the vendors receiving identification information regarding the seekers. (paragraph [0008].) According to Boucousis, a web site contains a data structure that includes an item catalogue and a listing catalogue. The item catalogue holds entries for items that may be offered by vendors and that are of interest to seekers, and the listing catalogue holds entries for the items that are presently available from the vendors. (paragraph [0038].) To make information regarding their items available to the seekers of information, the vendors create an entry in the listing catalogue. A vendor may only create an entry for an item in the listing catalogue if it appears in the item catalogue. (paragraph [0039].) A seeker of information connects to the web site and submits a search query for an item of interest to be searched for. In response, the web site searches the listing catalogue for matches between the search query and an entry in the listing catalogue, and displays a web page informing the seeker of information of the number of items in the listing catalogue that match the submitted search query. (paragraph [0042]-[0044].) When the seeker proceeds to view further details of the identified items, the web site provides the vendors corresponding to the viewed items the seeker's contact information. (paragraph [0045].)

In Boucousis, the user's query can only match items in the listing catalogue, which must in turn appear in the item catalogue. Although this may be considered a form of

subsetting the items contained in the item catalogue, Boucousis contains no indication of automatically defining a range of dates, and subsetting the items in the item catalogue to those items having an availability date falling within the defined date range to obtain the listing catalogue. Rather, Boucousis indicates that the vendors enter the items in the listing catalogue to make them available for searching, and require that only items in the item catalogue be listed in the listing catalogue.

C. Rejection of the Claims

1. Independent Claim 1

a. The Examiner has Failed to Establish a *Prima Facie* Case of Obviousness

Independent claim 1 reads as follows:

> A method in a computing system for displaying information about new products to an identified user, comprising:
>
> automatically defining a range of dates within which the availability dates of new products fall;
>
> subsetting an inventory of products to those products having an availability date falling within the defined date range;
>
> from among the subsetted inventory, automatically selecting products for display based upon predicted level of interest to the user; and
>
> adding information about the selected products to a display.

The rejection of claim 1 is improper because the Examiner has failed to establish a *prima facie* case for obviousness. More specifically, the Examiner has not cited any portion of Boucousis that discloses or suggests (1) automatically defining a range of dates within which the availability dates of new products fall, (2) subsetting an inventory of products to those products having an availability date falling within the defined date range, and (3) automatically selecting products for display from among the subsetted inventory based upon predicted level of interest to the user, as recited in claim 1. For example, as acknowledged by the Examiner, "Boucousis does not teach . . . defining a range of dates

within which the availability dates of new products fall." (September 23, 2005, Final Office Action, p. 2.) At best (and as noted by the Examiner) Boucousis teaches an item catalogue and a listing catalogue which users may search by way of querying a searchable database. (*Id.*, at p. 3.) However, even assuming for the sake of argument that one of ordinary skill in the art would have been motivated to have a user query Boucousis' database on the basis of time-frame of availability, as suggested by the Examiner, the user query based on a time-frame of availability would be performed against the listing catalogue. At best, Boucousis' listing catalogue would be analogous to Appellants' subsetted inventory. Thus, the Examiner has failed to provide any indication of how Boucousis discloses or suggests automatically defining a range of dates within which the availability dates of new products fall.

Moreover, the Examiner has not pointed to anything in the prior art that suggests or provides a motivation to define a range of dates within which the availability dates of the items contained in the item catalogue fall. A motivation or suggestion to modify must come from the prior art. *In re Fritch,* 972 F.2d 1260 (Fed. Cir. 1992); *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). The Examiner has not pointed to any teaching or suggestion within the prior art that supports his conclusory statements to have the user query the database in the invention of Boucousis on the basis of time-frame for availability in order to define a range of dates. Rather, the Examiner's rejections are based on a legally impermissible use of hindsight. The Examiner recognizes differences between by Appellants' claimed invention and the prior art, and attempts to attribute those improvements to some sort of common sense or background knowledge available to anyone of ordinary skill in the art at the time of the invention. The Federal Circuit has consistently held that reliance on such assertions of common sense or basic knowledge is impermissible. *Id.*; *see also In re Sang Su Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d (BNA) 1430 (Fed. Cir. 2002). No teaching or motivation from within the prior art suggested modifying Boucousis, and the Examiner's conclusory statements are insufficient.

The Examiner has also acknowledged that "Boucousis does not teach . . . subsetting an inventory of products having an availability date falling within the defined date range." (September 23, 2005, Final Office Action, p. 2.) While Boucousis teaches a listing catalogue that contains items that are also contained in an item catalogue, a user query of the listing catalogue does not produce a subset of the item catalogue to those items having an availability date falling within a defined date range. Even assuming for the sake of argument that a query would inherently create a subset of products from the products in the listing catalogue, because the purpose of any query is to filter a set into a smaller subset as noted by the Examiner, merely creating a subset of the items in the listing catalogue is not the same as subsetting the items in the item catalogue to those items having an availability date falling within the defined date range. Thus, the Examiner has failed to provide any indication of how Boucousis discloses or suggests subsetting an inventory of products to those products having an availability date falling within the defined date range.

The Examiner has also acknowledged that Boucousis does not teach or suggest automatically selecting products for display from among the subsetted inventory based upon predicted level of interest to the user. (*See Id.*, p. 3.) Boucousis teaches searching the listing catalogue for items that match a user query and displaying a listing of the items in the listing catalogue that matches the user query. Once the user submits a query, the searching of the listing catalogue for matching items and the displaying of the matching items are performed automatically in the invention of Boucousis. The query submission is not automatic. Thus, the Examiner has failed to provide any indication of how Boucousis discloses or suggests automatically selecting products for display from among the subsetted inventory (i.e., the subset of the inventory of products to those products having an availability date falling within the defined date range) based upon predicted level of interest to the user.

As such, the Examiner has not presented a *prima facie* case of obviousness, and the rejection of claim 1 should be reversed.

b. Boucousis Fails to Disclose or Suggest All of the Elements Recited by Claim 1 and Is Therefore Incapable of Supporting any Proper Rejection Under 35 U.S.C. § 103(a)

As noted above, Boucousis does not disclose, suggest, or teach (1) automatically defining a range of dates within which the availability dates of new products fall, (2) subsetting an inventory of products to those products having an availability date falling within the defined date range, and (3) automatically selecting products for display from among the subsetted inventory based upon predicted level of interest to the user. On the contrary, Boucousis specifically explains that:

> The web site accesses the electronically searchable database 12 including an electronically searchable data structure comprising item catalogue 7 that holds entries for a catalogue of items that may be offered by vendors and are of interest to seekers. The searchable data structure further includes a listing catalogue 9 that lists items that are presently available from the vendors. Only items that have an entry in the item catalogue may be listed in the listing catalogue. . . .
>
> In order for a vendor, for example vendor 5*n*, to have items entered in the listing catalogue communication is established between the vendor's computer system and the administrator website 3 for example by means of an Internet browser software application. Upon establishing communication the website requests a unique subscriber ID code from the provider 5*n*. Once the identity of the provider is verified the provider is able to submit items for listing in the listing catalogue. Only items that appear in item catalogue 7 may be listed. In order to facilitate submission of items in a form that corresponds to the form of the item catalogue the vendor may be guided by means of a submission web page as shown in FIG. 2. . . .

(emphasis added) (paragraphs [0038]-[0039].) This section of Boucousis states that the vendor creates a subset of the items in the item catalogue by specifying the items for listing in the listing catalogue, and that the subsetted items (i.e., the items in the listing catalogue) are the items that are presently available from the vendor. Automatically defining a range of dates within which the availability dates of new products fall, and subsetting an inventory of products to those products having an availability date falling

within the defined date range is specifically outside the scope of the Boucousis disclosure. Further, because Boucousis contemplates having the vendors specify the items in the listing catalogue, Boucousis would have no reason to subset the items in the item catalogue based on an automatically defined range of dates within which the availability dates for the items fall.

Boucousis also explains that:

> Subsequent to successful verification the seeker is able to access web pages that allow the seeker to submit a search query for an item of interest to be searched for. . . .Once the search query has been submitted in a form that corresponds with an entry in item catalogue 7, web site 3 initiates a search through listing catalogue 9. . . .
>
> In the event that there is a match between the search query and an entry in the listing catalogue, that the seeker is not barred from viewing, then the web site displays a web page to the seeker informing them of the number of items in the listing catalogue that match their search query. . . . The seeker is now presented with the option of proceeding to have the details of the located entries displayed. Where the seeker proceeds the seeker's contact details will be made available to the vendors corresponding to the located listings.

(paragraphs [0042]-[0045].) This section of Boucousis states that the search of the listing catalogue is performed based on a seeker-submitted search query, and that the seeker makes the ultimate decision with regard to having the details of the located entries displayed. Automatically selecting products for display from among the subsetted inventory is specifically outside the scope of the Boucousis disclosure. Further, because Boucousis contemplates making the seeker's contact details available to the vendors corresponding to the located listings in the event the seeker proceeds with having the details of the located entries displayed, Boucousis would have no reason to automatically display to the seeker the details of the located entries.

For at least these reasons, Boucousis cannot render claim 1 obvious.

2. Dependent Claims 2-6

Dependent claims 2-6 depend directly or indirectly from claim 1. Thus, the rejection of claims 2-6 is improper for the reasons set forth above for claim 1. The rejection of dependent claims 2-5 is also improper, and should be reversed, for the additional reasons set forth below for the specific claims.

a. Claim 2

Dependent claim 2 reads as follows:

> The method of claim 1 wherein the selecting is performed for products in each of a plurality of product categories.

The rejection of claim 2 is additionally improper because Boucousis does not teach or suggest automatically selecting products in each of a plurality of product categories for display, as recited in claim 2. As acknowledged by the Examiner, "Boucousis does not teach a plurality of products from a multiplicity of product categories." (September 23, 2005, Final Office Action, p. 3.) The Examiner's conclusory statement that it would have been obvious to organize the products in the database of Boucousis into multiple product categories because Boucousis places no restriction on the type of product information a vendor can place in the database is insufficient. The Examiner has not pointed to any teaching or suggestion within the prior art that supports his conclusory statement to categorize the database in the invention of Boucousis on the basis of product categories. Moreover, the Examiner has also not identified any teaching in the prior art to support his statement to automatically select products in each of a plurality of product categories for display. Boucousis contains no suggestion or motivation for these modifications. As such, the Examiner has not presented a *prima facie* case of obviousness and Boucousis is not sufficient to support an obviousness rejection. Accordingly, the rejection of claim 2 should be reversed.

b. Claim 3

Dependent claim 3 reads as follows:

> The method of claim 2, further comprising selecting the plurality of product categories from a multiplicity of product categories based upon indications of interest by the user in the selected product categories.

The rejection of claim 3 is additionally improper because the Examiner has failed to establish a *prima facie* case for obviousness. More specifically, the Examiner has not cited any portion of Boucousis that discloses or suggests selecting the plurality of product categories from a multiplicity of product categories based upon indications of interest by the user in the selected product categories, as recited in claim 3. Appellants respectfully submit that Boucousis fails to teach or suggest selecting the plurality of product categories from a multiplicity of product categories based upon indications of interest by the user in the selected product categories. Because the Examiner has not met the *prima facie* burden for supporting an obviousness rejection and because Boucousis is insufficient to support an obviousness rejection, the rejection of claim 3 should be reversed.

c. Claim 4

Dependent claim 4 reads as follows:

> The method of claim 2 wherein the adding causes information about each selected product to be added in a section identifying the product category of the product.

The rejection of claim 4 is additionally improper because the Examiner has failed to establish a *prima facie* case for obviousness and because Boucousis does not disclose the additional element of claim 4. More specifically, the Examiner has not cited any portion of Boucousis that discloses or suggests adding [information about the selected products to a display] causes information about each selected product to be added in a section identifying the product category of the product, as recited in claim 4. Appellants respectfully submit that Boucousis fails to teach or suggest adding [information about the

selected products to a display] causes information about each selected product to be added in a section identifying the product category of the product. Because the Examiner has not met the *prima facie* burden for supporting an obviousness rejection and because Boucousis is insufficient to support an obviousness rejection, the rejection of claim 4 should be reversed.

d. Claim 5

Dependent claim 5 reads as follows:

> The method of claim 4, further comprising ordering the product category sections in the display in accordance with information indicating the user's level of interest in each of the product categories.

The rejection of claim 5 is additionally improper because the Examiner has failed to establish a *prima facie* case for obviousness and because Boucousis does not disclose the additional element of claim 5. More specifically, the Examiner has not cited any portion of Boucousis that discloses or suggests ordering the product category sections in the display in accordance with information indicating the user's level of interest in each of the product categories, as recited in claim 5. Appellants respectfully submit that Boucousis fails to teach or suggest ordering the product category sections in the display in accordance with information indicating the user's level of interest in each of the product categories. Because the Examiner has not met the *prima facie* burden for supporting an obviousness rejection and because Boucousis is insufficient to support an obviousness rejection, the rejection of claim 5 should be reversed.

3. Independent Claim 24

a. The Examiner has Failed to Establish a *Prima Facie* Case of Obviousness

Independent claim 24 reads as follows:

A computer-readable medium whose contents cause a computing system to display information about new products to an identified user by:

automatically defining a range of dates within which the availability dates of new products fall;

subsetting an inventory of products to those products having an availability date falling within the defined date range;

from among the subsetted inventory, automatically selecting products for display based upon information relating to the user; and

adding information about the selected products to a display.

The rejection of claim 24 is improper because the Examiner has failed to establish a *prima facie* case for obviousness. As discussed above with respect to claim 1, the Examiner has not cited any portion of Boucousis that discloses or suggests (1) automatically defining a range of dates within which the availability dates of new products fall, (2) subsetting an inventory of products to those products having an availability date falling within the defined date range, and (3) automatically selecting products for display from among the subsetted inventory based upon information relating to the user, as recited in claim 24. The Examiner has acknowledged that Boucousis does not teach "identifying a range of dates within which the availability of new products fall," "subsetting an inventory of products having an availability date falling within the defined date range," or that the products are automatically selected. The Examiner attempts to overcome these deficiencies based on impermissible use of hindsight and conclusory statements. As such, the Examiner has not presented a *prima facie* case of obviousness, and the rejection of claim 24 should be reversed.

b. Boucousis Fails to Disclose or Suggest All of the Elements Recited by Claim 24 and Is Therefore Incapable of Supporting any Proper Rejection Under 35 U.S.C. § 103(a)

As described above, Boucousis does not teach or suggest a method in a computing system for displaying information about new products by (1) automatically defining a range of dates within which the availability dates of new products fall, (2) subsetting an inventory

of products to those products having an availability date falling within the defined date range, and (3) automatically selecting products for display from among the subsetted inventory based upon predicted level of interest to the user. In a similar manner, Boucousis does not teach a computer-readable medium whose contents cause a computing system to display information about new products to an identified user by (1) automatically defining a range of dates within which the availability dates of new products fall, (2) subsetting an inventory of products to those products having an availability date falling within the defined date range, and (3) automatically selecting products for display from among the subsetted inventory based upon information relating to the user. Moreover, there is nothing in the prior art that suggests or provides a motivation to modify Boucousis to (1) automatically define a range of dates within which the availability dates of new items fall, (2) subset an item catalogue to those new items having an availability date falling within the defined date range, and (3) automatically select items for display from among the subsetted inventory based upon information relating to the user. For at least these reasons, Boucousis cannot render claim 24 obvious.

4. Independent Claim 25

a. The Examiner has Failed to Establish a *Prima Facie* Case of Obviousness

Independent claim 25 reads as follows:

> A method in a computing system for presenting information about new content on a web site, comprising:
>
> automatically defining a range of dates within which the availability dates of new instances of content fall;
>
> subsetting an inventory of new instances of content to those instances of content having an availability date falling within the defined date range;
>
> from among the subsetted inventory, automatically selecting instances of content for display based upon information relating to the user; and

adding information about the selected instances of content to a display.

The rejection of claim 25 is improper because the Examiner has failed to establish a *prima facie* case for obviousness. Similar to the discussion above with respect to claims 1 and 24, the Examiner has not cited any portion of Boucousis that discloses or suggests (1) automatically defining a range of dates within which the availability dates of new instances of content fall, (2) subsetting an inventory of new instances of content to those instances of content having an availability date falling within the defined date range, and (3) automatically selecting instances of content for display from among the subsetted inventory based upon information relating to the user, as recited in claim 25. As such, the Examiner has not presented a *prima facie* case of obviousness, and the rejection of claim 25 should be reversed.

b. Boucousis Fails to Disclose or Suggest All of the Elements Recited by Claim 25 and Is Therefore Incapable of Supporting any Proper Rejection Under 35 U.S.C. § 103(a)

As described above, Boucousis does not teach or suggest a method or a computer-readable medium whose contents cause a computing system to display information about new products by (1) automatically defining a range of dates within which the availability dates of new products fall, (2) subsetting an inventory of products to those products having an availability date falling within the defined date range, and (3) automatically selecting products for display from among the subsetted inventory based upon predicted level of interest to the user. In a similar manner, Boucousis does not teach a method in a computing system for presenting information about new content on a web site by (1) automatically defining a range of dates within which the availability dates of new instances of content fall, (2) subsetting an inventory of new instances of content to those instances of content having an availability date falling within the defined date range, and (3) automatically selecting instances of content for display from among the subsetted inventory based upon information relating to the user. Moreover, there is nothing in the prior art that suggests or provides a motivation to modify Boucousis to (1) automatically

define a range of dates within which the availability dates of new items fall, (2) subset an item catalogue to those new items having an availability date falling within the defined date range, and (3) automatically select items for display from among the subsetted inventory based upon information relating to the user. For at least these reasons, Boucousis cannot render claim 25 obvious.

VIII. SUMMARY

Each of claims 1-6, 24 and 25 has been improperly rejected, both (a) in that the Examiner has failed to provide prior art references that disclose all of the elements of these claims, and (b) in that the cited references would not support any rejection of these claims. Accordingly, Appellants seek the reversal of the rejection of claims 1-6, 24 and 25.

Dated: 8/21/06

Respectfully submitted,

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APPENDIX A

Claims Involved in the Appeal of Application Serial No. 09/848,608

1. (Previously Presented) A method in a computing system for displaying information about new products to an identified user, comprising:

automatically defining a range of dates within which the availability dates of new products fall;

subsetting an inventory of products to those products having an availability date falling within the defined date range;

from among the subsetted inventory, automatically selecting products for display based upon predicted level of interest to the user; and

adding information about the selected products to a display.

2. (Original) The method of claim 1 wherein the selecting is performed for products in each of a plurality of product categories.

3. (Original) The method of claim 2, further comprising selecting the plurality of product categories from a multiplicity of product categories based upon indications of interest by the user in the selected product categories.

4. (Original) The method of claim 2 wherein the adding causes information about each selected product to be added in a section identifying the product category of the product.

5. (Original) The method of claim 4, further comprising ordering the product category sections in the display in accordance with information indicating the user's level of interest in each of the product categories.

6. (Original) The method of claim 1 wherein products are selected for display based upon specific interests of the user.

7. (Withdrawn) The method of claim 1 wherein products are selected for display based upon sales rankings of the products.

8. (Withdrawn) The method of claim 1 wherein at least a portion of the products among the inventory have availability dates based upon dates on which the products were released.

9. (Withdrawn) The method of claim 1 wherein at least a portion of the products among the inventory have availability dates based upon dates on which the products were published.

10. (Withdrawn) The method of claim 1 wherein at least a portion of the products among the inventory have availability dates based upon dates on which the products arrived.

11. (Withdrawn) The method of claim 1, further comprising defining the range to begin on a date that is a predetermined length of time before a current date.

12. (Withdrawn) The method of claim 1, further comprising defining the range to begin on a date that is 6 weeks before a current date.

13. (Withdrawn) The method of claim 1, further comprising defining the range to begin on a date selected based on a date on which product information was last displayed to the user.

14. (Withdrawn) The method of claim 1, further comprising defining the range to begin on a date on which product information was last displayed to the user.

15. (Withdrawn) The method of claim 1, further comprising defining the range to end on a date that is a predetermined length of time after a current date.

16. (Withdrawn) The method of claim 1, further comprising defining the range to end on a date that is 3 weeks after a current date.

17. (Withdrawn) The method of claim 1 wherein the method is performed in response to a display request originating with the user.

18. (Withdrawn) The method of claim 1 wherein the adding is performed in response to a display request originating with the user.

19. (Withdrawn) The method of claim 1 wherein the adding is performed in response to a HTTP request originating with the user.

20. (Withdrawn) The method of claim 1 wherein the subsetting, selecting, and adding are also performed with respect to articles among an inventory of articles, such that information about new articles is displayed to the user.

21. (Withdrawn) The method of claim 20 wherein the subsetting of articles is performed based upon information indicating whether the user has purchased products associated with each article.

22. (Withdrawn) The method of claim 1 wherein the subsetting, selecting, and adding are also performed with respect to product recommendations among a supply of

product recommendations, such that information about new product recommendations is displayed to the user.

23. (Withdrawn) The method of claim 1 wherein the subsetting, selecting, and adding are also performed with respect to announcements among a supply of announcements, such that information about new announcements is displayed to the user.

24. (Previously Presented) A computer-readable medium whose contents cause a computing system to display information about new products to an identified user by:

automatically defining a range of dates within which the availability dates of new products fall;

subsetting an inventory of products to those products having an availability date falling within the defined date range;

from among the subsetted inventory, automatically selecting products for display based upon information relating to the user; and

adding information about the selected products to a display.

25. (Previously Presented) A method in a computing system for presenting information about new content on a web site, comprising:

automatically defining a range of dates within which the availability dates of new instances of content fall;

subsetting an inventory of new instances of content to those instances of content having an availability date falling within the defined date range;

from among the subsetted inventory, automatically selecting instances of content for display based upon information relating to the user; and

adding information about the selected instances of content to a display.

26. (Withdrawn) The method of claim 25 wherein at least a portion of the instances of content among the inventory have availability dates based upon dates on which the content instance was completed.

27. (Withdrawn) The method of claim 25 wherein at least a portion of the instances of content among the inventory have availability dates based upon dates on which the content instance was received.

28. (Withdrawn) The method of claim 25 wherein at least a portion of the instances of content among the inventory have availability dates based upon dates on which the content instance was released.

29. (Withdrawn) The method of claim 25 wherein at least a portion of the instances of content among the inventory have availability dates based upon dates upon which associated events occur.

30. (Withdrawn) A method in a computing system for presenting information about new items, comprising:

receiving a request for information submitted on behalf of an identified user;

accessing a set of items having effective times;

performing a first filtering to eliminate items of the set whose effective times indicate that the items are not new;

performing a second filtering to eliminate items of the set in which the user likely has a low level of interest; and

subsequent to both the first and second filterings, presenting to the user information about each of at least a portion of the filtered items.

31. (Withdrawn) The method of claim 30 wherein the first filtering involves comparing the effective time of each item to a last visit time.

32. (Withdrawn) The method of claim 30 wherein the first filtering involves comparing the effective time of each item to an offset from the current time.

33. (Withdrawn) The method of claim 30 wherein the second filtering is performed using a recommendation engine.

34. (Withdrawn) The method of claim 33 wherein the second filtering is performed using a list of products, genres, authors, or other items generated by the recommendation engine using previous purchases, ratings, pages viewed, or other actions of a customer in comparison with other similar customers.

35. (Withdrawn) The method of claim 30 wherein the second filtering is performed using information associated with the user that reflects the user's interests.

36. (Withdrawn) The method of claim 30 wherein the second filtering is performed using information reflecting the interest of a user population including the user in items of the set.

37. (Withdrawn) The method of claim 30 wherein the second filtering is performed using information reflecting the interest of all users in items of the set.

38. (Withdrawn) The method of claim 30 wherein the second filtering is performed using information reflecting overall consumption of items of the set.

39. (Withdrawn) The method of claim 30 wherein the second filtering is performed based upon input from a human editor.

40. (Withdrawn) The method of claim 30 wherein the first filtering is performed prior to the second filtering.

41. (Withdrawn) The method of claim 30 wherein the second filtering is performed prior to the first filtering.

42. (Withdrawn) The method of claim 30 wherein the first filtering is performed prior to receiving the request.

43. (Withdrawn) The method of claim 30 wherein the first filtering is performed in response to receiving the request.

44. (Withdrawn) The method of claim 30 wherein the second filtering is performed prior to receiving the request.

45. (Withdrawn) The method of claim 30 wherein the second filtering is performed in response to receiving the request.

46. (Withdrawn) The method of claim 30 wherein the presenting includes displaying information about each of at least a portion of the filtered items.

47. (Withdrawn) The method of claim 30 wherein the presenting includes serving a web page containing information about each of at least a portion of the filtered items.

48. (Withdrawn) The method of claim 30 wherein the presenting includes transmitting a message containing information about each of at least a portion of the subsetted items.

49. (Withdrawn) The method of claim 48 wherein an electronic message is transmitted.

50. (Withdrawn) The method of claim 48 wherein a physical message is transmitted.

51. (Withdrawn) A computing system for presenting information about new items, comprising:

a receiver that receives a request for information submitted on behalf of an identified user;

one or more memories containing information about a set of items having effective times;

a first subsetting component for performing a first subsetting to eliminate items of the set whose effective times indicate that the items are not new;

a second subsetting component for performing a second subsetting to eliminate items of the set in which the user likely has a low level of interest; and

an information presentation subsystem that presents to the user information about each of at least a portion of the items subsetted by both the first and second subsetting components.

52. (Withdrawn) One or more memories collectively containing a display document data structure, the data structure usable to present a display document, comprising information indicating, for each of a plurality of categories:

a category name; and

a list of items of interest to a target user whose effective dates qualify the items as new items.

53. (Withdrawn) The memories of claim 52 wherein the data structure represents an HTML document.

54. (Withdrawn) The memories of claim 52 wherein the data structure is dynamically generated in response to a request submitted on behalf of the target user.

55. (Withdrawn) One or more generated data signals collectively conveying a display document data structure, the data structure usable to present a display document, comprising information indicating, for each of a plurality of categories:

a category name; and

a list of items of interest to a target user whose effective dates qualify the items as new items.

56. (Withdrawn) The memories of claim 55 wherein the data structure represents an HTML document.

57. (Withdrawn) The memories of claim 55 wherein the data structure represents an electronic mail message.

58. (Withdrawn) The memories of claim 55 wherein the data structure represents an instant message.

59. (Withdrawn) The memories of claim 55 wherein the data structure represents a pager message.

EVIDENCE APPENDIX

No evidence has been entered or is being relied upon in the present appeal.

RELATED PROCEEDINGS APPENDIX

There are no decisions rendered by a court or the Board in any proceeding identified in the Related Appeals and Interferences section.